

REMARKS

Claims 1-34 and 40-58 were pending at most recent examination.

Claim 57 has been amended.

Claim 59 has been added.

It is respectfully submitted that new claim 59 includes no new matter and is supported by the specification and drawings as originally filed. In particular, support for the term "*interface state manager*" is found in the specification as originally filed, at least in para [0043].

Entry into the record and examination of new claim 59 is respectfully requested.

Thus, claims 1-34 and 40-59 are presently presented for continued examination (RCE).

Claim Rejections

35 U.S.C. §103 Rejections

The Office Action of April 22, 2005 has rejected claims 1-34 and 40-58 under 35 U.S.C. §103(a) as being obvious over U.S. Patent number 6,694,450 issued to Kidder et al. (hereinafter "KIDDER") in view of applicant's admitted prior art.

Claims 1-34 and 40-58 It is respectfully submitted that the Office Action does not establish a proper basis for combining KIDDER with the relevant parts of applicant's admitted prior art.

By way of justifying the hypothetical combinations, the Examiner has written, *"...Therefore based on the combination, the processes would send heartbeat messages to the name server such that the name server is able to determine whether the process is alive, dead, or restarted, since the name server normally receives messages from processes regarding the process state. Therefore, it would be obvious to one skilled in the art to combine the teachings of KIDDER with the well known teachings of heartbeat messaging in order to dynamically determine the state of a process...."*

Even if, purely for the sake of argument, one accepts the alleged veracity of the first statement (i.e. *"...Therefore based on the combination, the processes would send heartbeat messages to the name server such that the name server is able to determine whether the process is alive, dead, or restarted, since the name server normally receives messages from processes regarding the process state."*), it is respectfully submitted that the following sentence (i.e. *"...Therefore,*

it would be obvious to one skilled in the art to combine the teachings of KIDDER with the well known teachings of heartbeat messaging in order to dynamically determine the state of a process. ...") does not logically follow. It is respectfully submitted that the mere fact that the references would be operable in combination does not constitute sufficient justification for combining them as the Office Action has suggested.

In the same place in the Office Action, the Examiner continues "...*The cited references are analogous to one another because neither reference polls a process, but responds to messaging of the processes to determine the state of a process. ...*". It is respectfully submitted that again the Office Action is assuming the combination in order to justify creating it and that this circular argument is, at least, impermissible hindsight. Or alternatively if assuming that a common factor between the two provides justification *per se* for the combination. At best, further justification is required to motivate making a link.

The Office was invited, in the previous paper of December 20, 2004, to provide an affidavit stating specifically why the motivation to combine is common knowledge in the art, in the light of facts in the personal knowledge of the Examiner per 37 CFR 1.104(d)(2) but the Office has not done so. It is respectfully submitted that motivation to combine is not common knowledge to the Examiner or otherwise

Therefore, it is respectfully submitted that since the Office Action cites no reasonable basis for combining the references it is respectfully requested that all

rejections based on the combination of KIDDER in view of applicant's admitted prior art be withdrawn.

Claims 13, 14, 18, 19, 24, 26, 28, 32, 57 and 58. More specifically, as to claims 13, 14, 18, 19, 24, 26, 28, 32, 57 and 58, it is respectfully submitted that the Office Action does not show that (even an impermissible combination of) KIDDER in view of applicant's admitted prior art discloses, teaches or renders obvious all the limitations of claim claims 13, 14, 18, 19, 24, 26, 28, 32, 57 and 58.

Each of these claims, directly or indirectly recites a limitation of "... *incarnation number...*". The Examiner has written, for example and in part, " ... *As to claims 13, 18, 24, 28 and 32, KIDDER teaches the communication key (process identification information) includes a process identifier (process name) and an incarnation identifier (process identification number) (col.20, line 36-21, line 9; col. 21, lines 42-53; col. 21, line 61-col.22, line 8; col. 23, lines 11-35; col. 7, lines 7-39... ". But, it is respectfully submitted that KIDDER's *process identification number* is not an incarnation identifier nor does it render incarnation identifier obvious.*

See, for example, KIDDER, col.15, lines 21-31 reproduced here " ... *As described above, the operating system assigns a unique process identification number (proc_id) to each spawned process....*". It is respectfully submitted that the term "incarnation number" as used in the specification (see para [0028] of the specification of the present application) is not necessarily unique (in contrast with KIDDER). In fact it appears that KIDDER's "*unique process identification*

number" corresponds more closely to the applicant's similar *"unique process identifier"* (used in para [0028] of the specification of the present application) than it does to the differently defined *"incarnation number"* (Ibid).

Thus, KIDDER in view of applicant's admitted prior art cannot disclose, teach or render obvious all the limitations of claim 13, 14, 18, 19, 24, 26, 28, 32, 57 and 58, and it is respectfully requested that the rejection of claim 13, 14, 18, 19, 24, 26, 28, 32, 57 and 58 under 35 USC §103 as to KIDDER in view of applicant's admitted prior art be withdrawn.

Claims 57. Claim 57 has been amended to expand the abbreviation BGP (Border Gateway Protocol) to avoid any possible misinterpretation. This is supported by the specification as originally filed, para [0043]. Border Gateway Protocol is well-known in the art and the invention finds application in implementing it as alluded to in the specification as originally filed. It is respectfully submitted that the amendment to claim 57 is therefore of form rather than substance.

As to claim 57 it is respectfully submitted that the Office Action does not show that KIDDER in view of applicant's admitted prior art discloses, teaches or renders obvious all the limitations of claim 57. For example, claim 57 as amended recites, in part, *"... a plurality of network processes, including a Border Gateway Protocol (BGP) process, ... "*. Similarly, claim 57 prior to amendment recited, in part, *"... a plurality of network processes, including a BGP process, ... "*.

The Examiner has written " ... As to claim 57, KIDDER teaches a network apparatus, comprising: a plurality of network processes (processes device drivers), including a BGP process, each of the plurality of network processes to, generate a registration request message (message registering with name sewer) upon birth (started),... ". But, KIDDER is entirely silent as to BGP. Moreover the Office Action has not suggested that it is obvious to combine BGP with KIDDER, and any such suggestion would be rebutted. Thus, KIDDER in view of applicant's admitted prior art cannot disclose, teach or render obvious all the limitations of claim 57, and it is respectfully requested that the rejection of claim 57 under 35 USC §103 as to KIDDER in view of applicant's admitted prior art be withdrawn.

Claims 58 and 59 As to claims 58 and 59 , it is respectfully submitted that claims 58 and 59 are dependent, directly or indirectly, upon claim 57 therefore it is respectfully submitted that claims 58 and 59 are allowable for at least the same reasons as claim 57.

In light of the comments above, reconsideration of claims 1-34 and 40-58, and examination on the merits of new claim 59 is respectfully requested.

CONCLUSION

It is respectfully submitted that all rejections have been overcome and that all presently presented claims 1-34 and 40-59 are in condition for allowance or allowability.

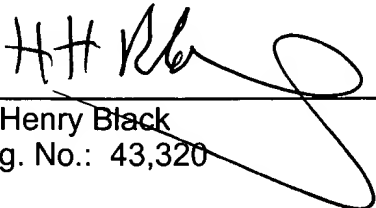
If there are any additional charges, please charge them to our Deposit Account Number 02-2666. If a petition for extension of time to respond is required in order to file this RCE, please consider such petition requested and charge necessary fees to our Deposit Account Number 02-2666.

If a telephone conference could help to facilitate the prosecution of this application, the Examiner is most cordially invited to contact the author at (408) 720-8300 (9-5, Pacific Time preferably).

Respectfully Submitted,
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